

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
)	
v.)	Case No. 4:13CR00143 SNLJ NAB
)	
)	
MICHAEL SMITH,)	
)	
Defendant.)	

MOTION OF DEFENDANT TO SUPPRESS EVIDENCE AND STATEMENTS

COMES NOW Defendant, by Counsel, and moves this Court for an Order suppressing as evidence any statements or writings made by Defendant, including, but not limited to, any conversations overheard by agents of the Government, interview with any federal agents, any state or local law enforcement agencies and any state or federal grand jury, and any physical evidence seized from the person or possession of this Defendant, and as grounds for this motion states:

1. Any statements, oral or written made by this Defendant were elicited by coercion and without the Defendant being advised of and afforded his rights under the Fifth Amendment of the United States Constitution and said statements are therefore involuntary and inadmissible.
2. Any statements, oral or written made by this Defendant were elicited as a result of an illegal arrest and are therefore inadmissible.
3. Any testimony or other evidence relating to or based upon said statements were obtained as a direct result of the violation of Defendant's rights under the Fifth Amendment, as aforesaid, and are therefore inadmissible.
4. Any physical evidence seized from the person or possession of Defendant, or otherwise seized, was seized as a result of searches and other illegal intrusions into Defendant's person and property without a valid search warrant issued upon probable cause, and not pursuant to a lawful order or any other legal justification for the following reasons:
 - a. Any arrest of Defendant was illegal in that it was not based upon a lawfully issued warrant or upon probable cause.

- b. Any evidence obtained from Defendant, including but not limited to handwriting exemplars obtained in violation of Defendant's due process rights and his right to be free from being compelled to be a witness against himself.
- c. In this instance, the arresting officer lacked probable cause to stop Defendant's vehicle and the fruits of any search thereof should be suppressed as the fruit of the poisonous tree.

Supporting authority will be provided after an evidentiary hearing at which time the circumstances of the instant case may be established.

Respectfully Submitted:

Moran & Goldstein, L.C.

/S/ WILLIAM GOLDSTEIN

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Signature above is also certification that a true and correct copy of the above and foregoing document has been filed this 30th day of August, 2013, with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the Office of the United States Attorney, U.S. Court & Custom House, 111 South 10th Street, St. Louis, MO 63102.